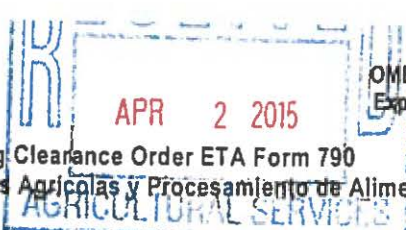




U.S. Department Labor  
Employment and Training Administration

3164



OMB Control No. 1205-0134  
Expiration Date: October 31, 2015

Agricultural and Food Processing Clearance Order ETA Form 790  
Orden de Empleo para Obreros/Trabajadores Agrícolas y Procesamiento de Alimentos

Plaintiff's Exhibit A

(Print or type in each field block - To include additional information, go to block #28 - Please follow Step-By-Step Instructions)  
(Favor de usar letra de molde en la solicitud - Para incluir información adicional vea el punto # 28 - Favor de seguir las instrucciones paso-a-paso)

1. Employer's and/or Agent's Name and Address (Number, Street, City, State and Zip Code / Nombre y Dirección del Empleador/Patrón y/o Agente (Número, Calle, Ciudad, Estado y Código Postal):  
JACKSONS FARMING COMPANY OF AUTRYVILLE  
2905 Ernest Williams Rd  
Autryville, NC 28318

a) Federal Employer Identification Number (FEIN) / Número federal de Identificación del Empleador: [REDACTED]

b) Telephone Number / Número de Teléfono: (910) 567-2202

c) Fax Number / Número de Fax: (910) 567-6622

d) E-mail Address / Dirección de Correo Electrónico: hregister@jfcamelons.com

2. Address and Directions to Work Site / Domicilio y Direcciones al lugar de trabajo:  
3171 Ernest Williams Rd, Autryville, Sampson County, NC 28318

From Dunn, NC, US 421 S to US 13; right on US 13 S; right on Baptist Chapel Rd; left on SR 1006; right on Howard Rd; left on Ernest Williams Rd. Farm office on left.

Fixed-site employer. Employer owns and/or controls the worksite.

3. Address and Directions to Housing / Domicilio y Direcciones al lugar de vivienda:  
3171 Ernest Williams Rd, Autryville, Sampson County, NC 28318

From Dunn, NC, US 421 S to US 13; right on US 13 S; right on Baptist Chapel Rd; left on SR 1006; right on Howard Rd; left on Ernest Williams Rd. Farm office on left. Housing is behind farm shop.

a) Description of Housing / Descripción de la vivienda: 1-MH,1-WF,3-BL (cap. 98)

Nos. 4 through 8 for STATE USE ONLY  
Números 4 a 8 para USO ESTATAL

4. SOC (O\*NET/OES) Occupational Code / Código Industrial:

45-2092

a. SOC (ONET/OES) Occupational Title / Título Ocupacional

Farmworkers & Laborers

5. Job Order No. / Num. de Orden de Empleo:

10363453

6. Address of Order Holding Office (include Telephone number) / Dirección de la Oficina donde se radica la oferta (incluya el número de teléfono):

P.O. Box 27625

Raleigh, NC 27611

919-814-0544

a. Name of Local Office Representative (include direct dial telephone number) / Nombre del Representante de la Oficina Local (incluya el número de teléfono de su línea directa).

W.L. Grant

7. Clearance Order Issue Date / Fecha de Emisión de la Orden de Empleo:

4-2-15

8. Job Order Expiration Date / Fecha de Vencimiento o Expiración de la Orden de Empleo:

9-6-15

9. Anticipated Period of Employment / Periodo anticipado o previsto de Empleo:

From / Desde: 06/11/2015

To / Hasta: 12/02/2015

10. Number of Workers Requested / Número de Trabajadores Solicitados: --

46 43

11. Anticipated Hours of Work per Week / Horas Anticipadas/Previstas de Trabajo por Semana. Total: 35

Sunday / Domingo 0

Thursday / Jueves 6

Monday / Lunes 6

Friday / Viernes 6

Tuesday / Martes 6

Saturday / Sábado 5

Wednesday / Miércoles 6

12. Anticipated range of hours for different seasonal activities: / Rango previsto de horas par alas diferentes actividades de la temporada:

7 a.m. to 3 p.m.

13. Collect Calls Accepted from: / Aceptan Llamadas por Cobrar de:

Employer / Empleador:

Yes / Si ☐ No ☒

14. Describe how the employer intends to provide either 3 meals a day to each worker or furnish free and convenient cooking and kitchen facilities for workers to prepare meals / Describa cómo el empleador tiene la intención de ofrecer, ya sea 3 comidas al día a cada trabajador, o proporcionar gratuitamente instalaciones para cocinar.

Employer will furnish free and convenient cooking and kitchen facilities so workers may prepare their own meals. Workers will buy their own groceries. Once a week, the employer will provide (on a voluntary basis) transportation to assure workers access to stores where they can purchase groceries. These board arrangements apply only to workers living in employer-provided housing.



15. Referral Instructions and Hiring Information / Instrucciones sobre cómo Referir Candidatos/Solicitantes - (Explain how applicants are to be hired or referred, and the Employer's/Agent's available hour to interview workers / Explique cómo los candidatos serán contratados o referidos, y las horas disponibles del empleador/agente para entrevistar a los trabajadores). See instructions for more details / Vea las instrucciones para más detalles.

All local and intrastate applicants may be referred directly to the employer for interview as follows: Consultants should fax or email the referral card containing the referral candidate's name, address and telephone number to employer first, then instruct the applicant to call the employer directly to schedule a personal interview. Hours for referral candidate to call the employer are 9:00 a.m. to 1:00 p.m., Monday-Friday, excluding all federal holidays. Referral candidates MUST call the employer and schedule an interview appointment prior to coming. No referral candidate is to go to the employer's address or work site without a scheduled interview. All interstate applicants interested in this job offer should first contact the North Carolina Department of Commerce, Division of Workforce Solutions – Ag Services in Raleigh, North Carolina at (919) 814-0544 prior to contacting the employer. Workers should be fully apprised by the local employment office of the terms, conditions and nature of employment prior to referral. Workers recruited against the job offer from within normal commuting distance will not be provided housing, subsistence or transportation. All applicants must be able (with or without reasonable accommodation), willing, and qualified to perform all the work described, and must be available for the entire anticipated period of employment. There is no offer or guarantee to be recalled for future employment except for the required solicitation of certain former U.S. workers in compliance with 20 CFR § 655.153.

Employer Email: hregister@jfcmelons.com

Employer Fax # 910-567-6622

Employer Voice # 910-567-2202, Heather Register

16. Job description and requirements / Descripción y requisitos del trabajo:

Pull weeds/chop: Workers will walk along rows as specified by employer and remove weeds and grass from fields by hand or using a hoe. Cultivate and harvest melons, broccoli, peanuts, sweet potato, long green cukes, flue-cured tobacco, and grain. Load and unload melons, broccoli, peanuts, sweet potato, long green cukes, flue-cured tobacco, and grain. Operate and perform minor maintenance on farm vehicles and equipment. Perform farm, field and shed sanitation duties. Prolonged standing, bending, stooping, and reaching. Job is outdoors and continues in all types of weather. Workers may be requested to submit to random drug or alcohol tests at no cost to the worker. Failure to comply with the request or testing positive may result in immediate termination. All testing will occur post-hire and is not a part of the interview process. Must be able to lift 75 lbs. to shoulder height repetitively throughout the workday and able to lift and carry 75 lbs. in field. Must keep up with other workers in the field. Use of personal cell phone or other personal electronic device during working hours strictly prohibited except for work-related calls or emergencies and violation may result in immediate termination. Requires one month verifiable farmworker experience in the crop activities listed. (Continued on ETA 790 Attachments – Item 16).

1. Is previous work experience preferred? / Se prefiere previa experiencia? Yes / Si ☒ No ☐ If yes, number of months preferred: / Si es así, numero de meses de experiencia: 1

2.

Check all requirements that apply:

- ☐ Certification/License Requirements / Certificación/Licencia Requisitos
- ☐ Driver Requirements / Requisitos del conductor
- ☐ Employer Will Train / Empleador entrenará o adiestrará
- ☐ Extensive Sitting / Estar sentado largos ratos
- ☒ Exposure to Extreme Temp. / Expuesto a Temperaturas Extremas
- ☒ Lifting requirement / Levantar o Cargar 75 lbs./libras
- ☒ Repetitive Movements / Movimientos repetitivos

- ☐ Criminal Background Check / Verificación de antecedentes penales
- ☒ Drug Screen / Detección de Drogas
- ☒ Extensive Pushing and Pulling / Empujar y Jalar Extensamente
- ☒ Extensive Walking / Caminar por largos ratos
- ☒ Frequent Stooping / Inclinandose o agachándose con frecuencia
- ☐ OT/Holiday is not mandatory / Horas Extras (sobre tiempo) / Días Feriados no obligatorio

17. Wage Rates, Special Pay Information and Deductions / Tarifa de Pago, Información Sobre Pagos Especiales y Deducciones (Rebajas)							
Crop Activities	Hourly Wage	Piece Rate / Unit(s)	Special Pay (bonus, etc.)	Deductions*	Yes/SI	No	Pay Period / Período de Pago
Cultivos	Salario por Hora	Pago por Pieza / Unidad(es)	Pagos Especiales (Bono, etc.)	Deducciones			/ /
Pull weeds/chop	\$10.32	N/A	NONE	Social Security / Seguro Social	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Weekly / Semanal
Melons	\$10.32	N/A	NONE	Federal Tax / Impuestos Federales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Broccoli	\$10.32	\$0.95 per 1-1/9 bu. box of cut crowns or equiv.	NONE	State Tax /Impuestos Estatales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bi-weekly/ Quincenal
Broccoli	\$10.32	\$2 per 1-1/9 bu. box of picked & packed bunches or equivalent	NONE	Meals / Comidas	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Long Green Cukes	\$10.32	\$0.52 per 5/8 bu. bucket or equivalent	NONE	Other (specify) / Otro (especifica)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Monthly/Mensual
Sweet potato	\$10.32	\$0.45 per 5/8 bu.	NONE				Other/Otro
Flue-cured tobacco	\$10.32	N/A	NONE				<input type="checkbox"/>
Peanuts, grain	\$10.32	N/A	NONE				

18. More Details About the Pay / Mas Detalles Sobre el Pago:

In accordance with 20 CFR § 655.122(l) governing rates of pay, the wage rate offered herein is the highest of the adverse effect wage rate, the prevailing hourly rate, the agreed upon collective bargaining wage, or the federal or State minimum wage, in effect at the time work is performed for every hour or portion thereof worked during a pay period covered by the approved labor certification. If the worker's piece rate earnings for a pay period result in average hourly earnings of less than the guaranteed minimum, the worker will be provided make-up pay to the guaranteed minimum rate. (See ETA 790 Attachments – Section 18 for more details about the pay.)

19. Transportation Arrangements / Arreglos de Transportación

For those workers recruited outside the area of intended employment, transportation and subsistence expenses will be reimbursed by the employer in accordance with 20 CFR § 655.122(h). Inbound transportation will be reimbursed on the basis of no less (and is not required to be more than) the most economical and reasonable charges for the distance involved. The subsistence reimbursement will be the amount the employer would charge for providing the worker three meals per day of \$11.86 per day or workers providing receipts will be reimbursed up to the amount authorized by the continental U.S. per diem rate of \$46 as computed by the GSA method. Payments will be made based upon the date of publication of the H-2A Program Allowable meal charges in the Federal Register. See Item 28 for full disclosure of the terms and conditions of the transportation benefit.



20. Is it the prevailing practice to use Farm Labor Contractors (FLC) to recruit, supervise, transport, house, and/or pay workers for this (these) crop activity (ies)? / ¿Es la práctica habitual usar Contratistas de Trabajo Agrícola para reclutar, supervisar, transportar, dar vivienda, y/o pagarle a los trabajadores para este(os) tipo(s) de cosecha(s)? Yes / SI ☐ No ☒

If you have checked yes, what is the FLC wage for each activity? / Si contesto "SI," cuál es el salario que le paga al Contratista de Trabajo Agrícola por cada actividad?

21. Are workers covered for Unemployment Insurance? / ¿Se le proporcionan Seguro de Desempleo a los trabajadores? Yes/SI ☒ No ☐

22. Are workers covered by workers' compensation? / ¿Se le provee seguro de compensación/indemnización al trabajador: Yes/SI ☒ No ☐

23. Are tools, supplies, and equipment provided at no charge to the workers? / ¿Se les proveen herramientas y equipos sin costo alguno a los trabajadores? Yes/SI ☒ No ☐

24. List any arrangements which have been made with establishment owners or agents for the payment of a commission or other benefits for sales made to workers. (If there are no such arrangements, enter "None".) / Enumere todos los acuerdos o convenios hechos con los propietarios del establecimiento o sus agentes para el pago de una comisión u otros beneficios por ventas hechas a los trabajadores. (Si no hay ningún acuerdo o convenio, indique "Ninguno".) NONE/NINGUNO

25. List any strike, work stoppage, slowdown, or interruption of operation by the employees at the place where the workers will be employed. (If there are no such incidents, enter "None".) / Enumere toda huelga, paro o interrupción de operaciones de trabajo por parte de los empleados en el lugar de empleo. (Si no hay incidentes de este tipo, indique "Ninguno".) NONE/NINGUNO

26. Is this job order to be placed in connection with a future Application for Temporary Employment Certification for H-2A workers? / ¿Esta orden de empleo ha sido puesta en conexión con una futura solicitud de certificación de empleo temporal para trabajadores H-2A?

Yes/ SI ☒ No ☐

\*\*Employer represented by and this job order prepared by:

Andrew M. Jackson, Attorney

Andrew Jackson Law

407 College Street

Clinton, NC 28328

(910) 592-4121

Fax #590-1012

andy@jacksonlegalagworkers.com

27. Employer's Certification: This job order describes the actual terms and conditions of the employment being offered by me and contains all the material terms and conditions of the job. / Certificación del Empleador: Esta orden de trabajo describe los términos y condiciones del empleo que se le ofrece, y contiene todos los términos y condiciones materiales ofrecidos.

JACKSONS FARMING COMPANY OF AUTRYVILLE

By: William Rodney Jackson, V. Pres.

Employer's Printed Name & Title / Nombre y Título en Letra de Molde/Imprenta del Empleador

  
Employer's Signature / Firma y Título del Empleador

03/31/2015

Date / Fecha

READ CAREFULLY, In view of the statutorily established basic function of the Employment Service as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the Employment and Training Administration (ETA) nor the State agencies are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. Nor does any job order accepted or recruited upon by the American Job Center constitute a contractual job offer to which the American Job Center, ETA or a State agency is in any way a party.

LEA CON CUIDADO, En vista de la función básica del Servicio de Empleo establecida por ley, como una entidad de intercambio laboral sin comisiones, es decir, como un foro para reunir a los empleadores y los solicitantes de empleo, ni ETA ni las agencias del estado pueden garantizar la exactitud o veracidad de la información contenida en las órdenes de trabajo sometidas por los empleadores. Ni ninguna orden de trabajo aceptado o contratado en el Centro de Carreras (American Job Center) constituyen una oferta de trabajo contractuales a las que el American Job Center, ETA o un organismo estatal es de ninguna manera una de las partes.

#### PUBLIC BURDEN STATEMENT

The public reporting burden for responding to ETA Form 790, which is required to obtain or retain benefits (44 USC 3501), is estimated to be approximately 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and reviewing the collection. The public need not respond to this collection of information unless it displays a currently valid OMB Control Number. This is public information and there is no expectation of confidentiality. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden, to the U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, Room C-4510, 200 Constitution Avenue, NW, Washington, DC 20210.

#### DECLARACION DE CARGA PÚBLICA

La carga de información pública para responder a la Forma ETA 790, que se requiere para obtener o retener beneficios (44 USC 3501), se estima en aproximadamente 60 minutos por respuesta, incluyendo el tiempo para revisar las instrucciones, buscar fuentes de datos existentes, recopilar y revisar la colección. El público no tiene por qué responder a esta recopilación de información a menos que muestre un número de control OMB válido. Esta información es pública y no hay ninguna expectativa de confidencialidad. Envíe sus comentarios acerca de esta carga o cualquier otro aspecto de esta colección, incluyendo sugerencias para reducir esta carga, al U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, Room C-4510, 200 Constitution Avenue, NW, Washington, DC 20210.



28. Use this section to provide additional supporting information (including section Box number). Include attachments, if necessary. / Utilice esta sección para proporcionar información adicional de apoyo; incluya el número de la sección e incluya archivos adjuntos, si es necesario.

**Item 3, DISCLOSURE OF HOUSING TERMS AND CONDITIONS:**

Employer requests conditional access into the Interstate and Intrastate Clearance System and assures that the worker housing will meet the applicable Federal Standards not later than thirty (30) days in advance of the date of need reflected on the attached ETA 790. Housing and utilities are provided at no cost to workers who are unable to return to their place of residence the same day. Workers recruited against this job order from within normal commuting distance will not be provided housing, subsistence, or transportation. The housing provided is group housing. In the event a female worker is hired, separate toilet, shower, and sleeping rooms will be provided by the employer. Family housing is not available and the provision of family housing is not a prevailing practice in the area of intended employment. Housing will be clean and meet applicable federal, State, and local standards. Workers will be responsible for maintaining housing in a neat, clean manner. Reasonable repair cost of damage, other than that caused by normal wear and tear, may be charged to workers found to have been responsible for damage to housing or furnishings.

**Item 19, TRANSPORTATION ARRANGEMENTS:**

Transportation to place of employment. If the employer has not previously advanced such transportation and subsistence costs to the worker or otherwise provided such transportation or subsistence directly to the worker by other means and if the worker completes fifty percent (50%) of the work contract period, employer will reimburse worker for reasonable costs incurred by the worker for transportation and daily subsistence from the place from which the worker has come to work for the employer to the employer's place of employment. The amount of the transportation payment will be the most economical and reasonable common carrier transportation charge for the distances involved. The amount of the daily subsistence payment shall be no less than the amount set under 20 CFR 655.173(a), which is currently \$11.86 per day. These arrangements apply only to workers who are recruited outside the area of intended employment.

Transportation from last place of employment to home country. If the worker completes the work contract period, or if the employer is terminated without cause, and the worker has no immediate H-2A employment, the employer will provide or pay for the worker's reasonable costs of return transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, departed to work for the employer. If the worker has contracted with a subsequent employer who has not agreed in such work contract to provide or pay for the worker's transportation and daily subsistence expenses from the employer's worksite to such subsequent employer's worksite, the employer must provide or pay for such expenses. If the worker has contracted with a subsequent employer who has agreed in such work contract to provide or pay for the worker's transportation and daily subsistence expenses from the employer's worksite to such subsequent employer's worksite, the subsequent employer must provide or pay for such expenses. The amount of the transportation payment will be the most economical and reasonable common carrier transportation charge for the distances involved. The amount of the daily subsistence payment shall be no less than the amount set under 20 CFR § 655.173(a), which is currently \$11.86 per day. The employer's obligation to provide or pay return transportation and subsistence continues if an H-2A worker is displaced as a result of the employer's compliance with the 50 percent rule as described in 20 CFR § 655.135(d) with respect to referrals made after the employer's date of need. These arrangements apply only to workers who are recruited outside the area of intended employment.

Transportation between living quarters and worksite. For those workers living in housing provided or secured by the employer, employer will provide transportation between such housing and the employer's daily worksite at no cost to the worker. Such transportation will comply with all applicable federal, State and local laws and regulations, in accordance with 20 CFR § 655.122(h)(4). The use of this daily transportation is voluntary; no worker is required as a condition of employment to use the daily transportation to the worksite offered by the employer.

Transportation for commuting workers between designated daily job reporting site and daily worksite. For commuting workers not living in housing provided or secured by the employer who report to a designated daily job reporting site, will provide transportation between such designated daily job reporting site and the employer's daily worksite at no cost to the worker, and return transportation from the daily work site back to the designated reporting site at no cost to the worker. Such transportation will comply with all applicable federal, State and local laws and regulations, in accordance with 20 CFR § 655.122(h)(4). The use of this daily transportation is voluntary; no worker is required as a condition of employment to use the daily transportation to the worksite offered by the employer.



**20 CFR 653.501**  
**Assurances**

**INTRASTATE AND INTERSTATE CLEARANCE ORDER**

The employer agrees to provide to workers referred through the clearance system the number of hours of work per week cited in Item 10 of the clearance order for the week beginning with the anticipated date of need, unless the employer has amended the date of need at least 10 working days prior to the original date of need by so notifying the Order-Holding Office (OHO). If the employer fails to notify the OHO at least 10 working days prior to the original date of need, the employer shall pay eligible workers referred through the intrastate/interstate clearance system the specified hourly rate or pay, or in the absence of a specified hourly rate or pay, the higher of the Federal or State minimum wage rate for the first week starting with the original anticipated date of need. The employer may require workers to perform alternative work if the guarantee is invoked and if such alternative work is stated on the job order.

The employer agrees that no extension of employment beyond the period of employment shown on the job order will relieve the employer from paying the wages already earned, or specified in the job order as a term of employment, providing transportation or paying transportation expenses to the worker's home.

The employer assures that all working conditions comply with applicable Federal and State minimum wage, child labor, social security, health and safety, farm labor contractor registration and other employment-related laws.

The employer agrees to expeditiously notify the OHO or State agency by telephone immediately upon learning that a crop is maturing earlier or later, or that weather conditions, over recruitment, or other factors have changed the terms and conditions of employment.

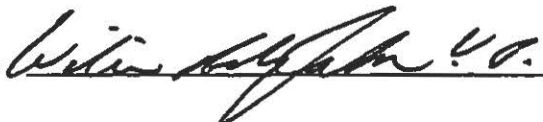
The employer, if acting as a farm labor contractor, has a valid farm labor contractor registration certificate.

The employer assures the availability of no cost or public housing which meets applicable Federal and State standards and which is sufficient to house the specified number of workers requested through the clearance system.

The employer also assures that outreach workers shall have reasonable access to the workers in the conduct of outreach activities pursuant to 20 CFR 653.107.

**JACKSONS FARMING COMPANY OF AUTRYVILLE**

Employer's Name    By: William Rodney Jackson, V. Pres.    Date: 03/31/2015

Employer's Signature 

**Besides the material terms and conditions of the employment, the employer must agree to these assurances if the job order is to be placed as part of the Agricultural Recruitment System. This assurance statement must be signed by the employer, and it must accompany the ETA Form 790.**



**ATTACHMENTS TO ETA 790**  
**For**  
**JACKSONS FARMING COMPANY OF AUTRYVILLE**  
**Anticipated Period of Employment from 06/11/2015 to 12/02/2015**

**§ 16, JOB DESCRIPTION AND REQUIREMENTS:**

**Pull weeds/chop:** Workers will walk along rows as specified by employer and remove weeds and grass from fields by hand or using a hoe. Cultivate and harvest melons, broccoli, peanuts, sweet potato, long green cukes, flue-cured tobacco, and grain. Load and unload melons, broccoli, peanuts, sweet potato, long green cukes, flue-cured tobacco, and grain. Operate and perform minor maintenance on farm vehicles and equipment. Perform farm, field and shed sanitation duties. Prolonged standing, bending, stooping, and reaching. Job is outdoors and continues in all types of weather. Workers may be requested to submit to random drug or alcohol tests at no cost to the worker. Failure to comply with the request or testing positive may result in immediate termination. All testing will occur post-hire and is not a part of the interview process. Must be able to lift 75 lbs. to shoulder height repetitively throughout the workday and able to lift and carry 75 lbs. in field. Must keep up with other workers in the field. Use of personal cell phone or other personal electronic device during working hours strictly prohibited except for work-related calls or emergencies and violation may result in immediate termination. Requires one month verifiable farmworker experience in the crop activities listed.

**Greenhouse Seeding:** Workers will fill trays with soil and feed full trays thru seeder. Workers will then transport seeded trays to greenhouse structure and place into float bed in an orderly manner in accordance with supervisors' instructions. Extra care must be taken not to disturb, disrupt or spill the planted seeds from the styrofoam tray cells during transport from seeder to floatbed. Tobacco seeds are extremely susceptible to disease. Therefore, each employee must exercise care and remain vigilant to ensure that their hands, clothes, and shoes are kept clean before entering the greenhouse. Greenhouse workers may be required to cleanse hands by washing in milk before handling tobacco seedlings. Workers will also work in and around greenhouses after germination doing general maintenance, clipping, fertilizing and monitoring according to supervisors' instructions.

**Melons:** Workers will walk along rows and cut melons for harvest according to size, color, shape and degree of maturity by using a knife. May carry harvested melons to field truck and load melons on truck or trailer by hand. May unload and pack harvested melons for shipment.

**Long Green Cucumbers:** Move along row, stoop and bend to pick developed long green cucumbers and place into 5/8<sup>th</sup> bushel bucket. Carry full buckets to a nearby truck for dumping, receive ticket or token in emptied bucket and return to assigned row to continue task. Workers must "clean the vines" (pick all cucumbers of marketable size) and larger as specified by employer. Workers will be required to stay on their assigned row. Worker must be careful to avoid damaging vines, blooms and smaller cucumbers. May be required to block and thin cucumbers and perform general cultivation work and move tractors or trucks on the farm incidental to picking. Workers may be required to perform other duties as required by employer.

**Broccoli:** Workers will bend and stoop to pick vegetables according to size, color, shape, and degree of maturity and place into field containers. Workers may cut developed produce from plant and place into bucket. Workers may carry full bucket containing vegetables and empty into field bin or load onto truck or trailer. May be required to pull and discard culls as directed by supervisor. Workers must take care not to bruise or scar produce. Worker will return to assigned row/area and repeat the process. Worker must pick plants clean of correct size and maturity. Produce may be graded and packed in the field. Produce must be washed thoroughly.



Sweet potatoes: Sweet potato plant pullers will stoop, bend and kneel to pull sweet potato plants from beds, exercising care in selecting plants of appropriate size as specified by supervisor. Selected plants will be boxed in an orderly fashion in field crates and crates windrowed and loaded on trailers for transport. May ride mechanical transplanter. May walk behind transplanter to reset missing plants. Sweet potato transplanting will be paid hourly. Sweet potato harvest workers will walk along row that has been previously plowed. Workers will stoop, bend and kneel to pick up sweet potatoes using hands and fingers to dig out unexposed potatoes. Workers may grade in the field separating #1's and #2's into separated 5/8 field hampers. Cannons, when harvested, will be placed into a separate bin. Damaged or diseased potatoes will not be harvested. Worker will be required to stay on assigned row. Full hampers weighing up to 35 lbs. will be carried to truck row to be loaded onto truck or trailer. Workers may be required to ride mechanical harvester. Workers may be required to perform other duties as required by the employer. Hand harvesting sweet potatoes will be paid on a piece rate of \$0.45 per 5/8 bushel. Mechanical harvest work, if any, will be paid hourly.

Tobacco: Harvest workers will move into a row of mature tobacco plants. Each row may be as long as 1500 feet. The tobacco plant may be from 4 to 6 feet tall and spaced about 20 inches apart in each row. Starting at the bottom of the plant, the worker will bend over at the waist and pick the bottom two or three leaves from each plant. Staying bent over, the worker will move down the row of mature tobacco repeating the above-process. (The bottom leaves may be as low as two inches from the ground.) The worker will place the picked leaves under his arm. Once the worker has gathered an armload of leaves, he will carry it to a field sled. The leaves must be laid neatly onto the field sled. The worker then will return to the row and repeat the process. All workers must be able to distinguish ripe tobacco by observing the color of the leaves. Care must be exercised to prevent breaking of the plants. Workers must be able to move quickly along the rows and move in unison with the field sleds. Worker may ride mechanical transplanter and mechanical harvester. Workers may walk behind transplanter to reset missing plants. Workers must remove all flowering tops and suckers from tobacco plants. Workers may assist in removing tobacco from barn, placing on sheets to be bound and loaded on trucks. Weight of sheets of tobacco may be 300 lbs. Workers are required to work in fields when tobacco leaves are wet with dew or rain. Worker should be able to stand for prolonged periods of time to prime (pull) leaves which are from two to ten inches from the ground. Workers may be exposed to noxious plants and insects. Temperatures in tobacco fields during working hours may range from 40 to over 100 degrees Fahrenheit. Workers must be able to perform the job as described above. Workers may be required to perform other duties as required by the employer. The pay rate for all tobacco work is hourly paid.

Workers may be required to perform work, on the farm, that is incidental to farming the crops listed in the application, such as performing hand-cultivation tasks, weeding or hoeing various crops, cleaning and repairing farm buildings, seed beds, grounds, setting up and moving irrigation pipes and equipment, gardening, weeding and shrubbing, etc. All other duties assigned under this Order will be those duties of Farm Worker, Diversified Crops, DOT code 407.687-010 (SOC (ONET/OES) code 45-2092.02). This is a very demanding and competitive business in which quality specifications must be rigorously adhered to. Sloppy work cannot and will not be tolerated.

All workers are required to follow common sanitary practices at all times. This is particularly important when hand-harvesting crops for human consumption. Workers are required to cleanse their hands by washing thoroughly with soap and water before entering field for harvest activities and after each break. Smoking and the use of tobacco products prohibited during working time.

Full Growing Season Commitment: The job offered requires that the worker be available for work six (6) hours per day Monday through Friday and five (5) hours on Saturday everyday that work is available and for the full anticipated period of employment, even though work may be slack for a brief period of time. The worker agrees to be available for work and performed assigned tasks whenever work is available



through the full anticipated period of employment. Work available is defined as, no work required on the worker's Sabbath or Federal holidays, but work is required six (6) hours per day Monday-Friday, and five (5) hours on Saturday.

The worker understands that if he abandons his employment or is terminated for cause prior to the end of the anticipated period of employment, the worker will forfeit the  $\frac{3}{4}$  guarantee and reimbursement of certain transportation costs. Excessive absences and/or tardiness cannot be tolerated and may result in termination.

Daily individual work assignments, crew assignments, and location of work will be made by and at the sole discretion of the farm manager and/or farm supervisor as the needs of the farming operation dictate. Workers may be assigned a variety of duties in any given day and/or different tasks on different days. Workers will be expected to perform any of the listed duties and work on any crop as assigned by the worker's supervisor.

*Los trabajadores ira a lo largo de la hilera especificado por el Patron or Supervisor y sacando las llerva y sacate de la soja, elote, cacahuates y o algodón con las manos o usando un asadón. Cultivar y cosechar melón, brocoli, cacahuates, camote, pepinos, tabaco, y o grano. Cargar y descargar melón, brocoli, cacahuates, camote, pepinos, tabaco, y o grano. Operar y hacer mantenimiento envehiculos y equipo de granja y deberes de limpieza sanitaria de granja, campo y cobertizo. Estar agachado y levantar hasta 75 libras y estirarse por mucho tiempo. El uso o la posesión o el estar bajo de la influencia de drogas ilegales o del alcohol durante horas de trabajo esta prohibida. Los trabajadores pueden ser requerido que se sometan a una prueba al azar de droga o alcohol sin costo al trabajador. La falta de someterse a este requerimiento o prueba positiva de uso resultara en la terminacion de empleo. Uso de teléfonos celulares durante las horas de trabajo y resultara en la terminacion de empleo, excepto para las llamadas relacionadas con el trabajo o emergencias. Estar agachado y estirarse por mucho tiempo. Un mes más experiencia comprobable de trabajo cosecha cultivos requiere. El trabajador llevara a caso alguna o todas las siguientes tareas segun instrucciones del Patron o Supervisor.*

*SEMILLANDO INVERNADEROS: Los trabajadores llenaran contenedores con tierra y lo pasaran por el semillero. Luego los llevaran adentro del invernadero y los colocaran ordenablemente al lugar designado segun las instrucciones del Patron o Supervisor. Precaucion tomeran los trabajadores de no molestar o dejar caer los contenedores cuando esten moviendolos al invernadero desde el semillero. Las semillas de tabacco son extremadamente seseptible a enfermedades y por esta razon, los trabajadores tendran precaucion extra de mantener limpio las manos, ropa, y zapatos antes de entrar al invernadero. Los trabajadores de invernadero pueden ser necesarios para limpiar las manos mediante lavado en leche antes de manipular las plántulas de tabaco. Los trabajadores trabajaran adentro y alrededor de los invernaderos despues terminan haciendo mantenimiento general como fertilizando, cortando y vigilando segun las instrucciones del Patron o Supervisor.*

*Melón: Trabajadores se camine a lo largo de las filas y cortará melones para cosecha según el tamaño, color, forma y grado de madurez mediante el uso de un cuchillo. Pueden llevar melones cosechados para camión de campo y melones en camión de carga a mano. Puede descargar y paquete de melones cosechados para el envoi.*

*PEPINOS: El trabajador ira a lo largo de la hilera, agachandose y doblandose para recoger todos los pepinos de dimetro correcto. Los trabajadores cargaran las cubetas llenas a un camion cercano para vaciarlos y recibir una ficha o cupon en el cubo vacido y regresar al surco asignado por el Patron o Supervisor para continuar la tarea. Trabajadores deben "limpiar las Guias" (Piscar toda la fruta de tamano comerciable) como se lo exige el patron, se le exige al trabajador que se quede en el surco*



asignado. El trabajador debe tener cuidado de no danar las enredaderas (guias), flores y pepinos pequeno. Se le puede requerir que entresaque los pepinos y los mantenga creciendo dentro de las hileras, y tambien llevar a cabo trabajo general de cultivo y mover tractores o camiones en el camp en relacion a la recogida. Se le puede exigir que lleve a cabo otras tareas segun lo requiera el patron. Se le exige al trabajador que se quede en el surco asignado.

**BROCOLI:** Los trabajadores cortaran las brocoli crecidas de la planta y las colocan en un balde. Cuando el balde esta lleno , los trabajadores le pasan el balde a otro trabajador y le daran otro balde vasido. A los trabajadores le daran una ficha por cada balde. El trabajador regresara a la hilera / area designada y volvera a repetir el proceso. El trabajador debe de cortar todas las brocoli de tamano y maduras correcta. Las brocoli se graduan y empaquetan en el campo. Las brocoli deben de ser lavadas por completo.

**PISCANDO EL CAMOTE:** Los arrancadores de plantas de camote se agacharan, se doblaran y arrodillaran para arrancar las plantas de camote del tamano macizo o especificado por el el Patron o Supervisor. Plantas escogidas seran empacadas correctamente en un cajon en el campo que sera colocado en una hilera y cargado a el "remolque" para ser transportado. Se puede requerir que vayan montados en transportadores mecanicos. Puede que los trabajadores tengan que caminar dedtras del transportador para sembrar las plantas que falten. El trabajo de transplantar camote se pagara por hora. Para recoger camote caminaran a lo largo de la hilera que ya ha sido arada. Los trabajadores se agacharan, doblaran y arrodillaran para recoger camote usando las manos y dedos para escarbar y sacar los camotes que no estan expuestas. Puede que los trabajadores clasifcaran los camotes en el camp separando las del numero 1 y 2 en diferentes cubetas de 5/8 bushel. Los camotes de calificacion numero 2 seran colocados en otro cajon. Camote danado o enfermo no seran recogidos. Se le exige al trabajador que se quede en el surco asignado. Las cubetas llenas que pesan hasta 35 libras seran llevadas al surco del camion para ser cargadas al camion o "remolque." Pago para la cosecha hecho a mano es .45 centavos por cubeta. Se le puede exigir montar un cosechador mecanico. Trabajo usando un cosecador mecanico sera pagado a salario base de efecto adverso (AEWR) por hora.

**COSECHANDO EL TABACO:** Cosechadores de tabaco maduro puede que cada surco sea de 1500 pie de largo. Puede que la planta de tabaco sea de 4 a 6 pie de alto y colocados aparte por aproximadamente 20 pulgadas en cada surco. Enpezando al fondo de la planta, el trabajador se doblara en la cintura para pisar dos o tres hojas mas bajas de cada planta. Siguiendo doblado el trabajador caminara por el surco de tabaco maduro repitiendo el dicho proceso. (Las hojas al fondo pueden ser dos (2) pulgadas arriba.) El trabajador colocara las hojas cosechadas de bajo su brazo. Una ves que se llene el brazo, se lo llevara a la traila. Las hojas tienen que ser puestas en la traila bien organizadas. Luego el trabajador regresara al surco para repetir el proceso. Todos los trabajadores tienen que tener la habilidad de extinguir tabaco maduro observando el color de las hojas. Se debe tener cuidado de no machucar o romper las plantas. Los trabajadores deban poder moverse rapidamente por los surcos y moverse en unisono con la traila. Puede que los trabajadores se montaran en un transplantador mecanico y cosechador mecanico. Trabajadores deben remover los retonios y flores de las plantas de tabaco. Puedeque los trabajadores ayudaran en quitando tabaco seco del almacen colocandolo sobre sabanas para encebramiento y cargado en un camion. El peso de estas sabanas de tabaco puede ser de 300 libras. Se le require al trabajador que trabajan en los campos cuando las hojas de tabaco estan mojadas con lluvia o rocio. Trabajadores deben poder estar parados para periodos largos para pisar hojas de tabaco de 2 a 10 pulgadas de la tierra. Puede que trabajadores seran expuestos a plantas nocivos y insectos. Temperaturas en campo de tabaco en las horas de trabajo flactuan de 40 grados F. Hasta arriba de 100 grados F. El pago para todo los trabajadores en tabaco es por hora.



*CONDICIONES GENERALES APLICABLES A TODOS LAS COSECHAS: Se les podra pedir a los trabajadores que efectuen labores agricolas en la finca que esten relacionadas con los cultivos enumerados en la solicitud, como labores de cultivo manual extraccion de mala hierba o cava de diversos cultivos como, el Algodon, la soya limpieza y reparacion de instalaciones de la finca, semilleros, estantes, terrenos, instalacion y traslado de tuberia y equipo de irrigacion, jardineria, poda de arbustos, y etc. Cualquier otro labor que se asigne en virtud de la presente orden sera el prescrito por trabajador agricola, cultivos diversificados, codigo DOT 407.687.010 (SOC (ONET/OES) code 45-2092.02). Esta es un negocio muy exigente y competitivo en cual las especificaciones de calidad deben ser adherido rigurosamente. Trabajo lodoso no puede ser ni sera tolerado.*

*Todos los trabajadores están obligados a seguir las prácticas sanitarias comunes en todo momento. Esto es particularmente importante cuando mano-cosechar cultivos para el consumo humano. Los trabajadores están obligados a limpiar sus manos mediante lavado con agua y jabón antes de entrar en el campo para las actividades de cosecha y después de cada descanso. Fumar y el uso de productos de tabaco prohibido durante el tiempo de trabajo.*

*COMETERSE CON EL CRECIMIENTO DE TEMPORADA LLENA: El trabajo que se ofrece requiere que los trabajadores estan disponibles para trabajar seis (6) horas por dia, de lunes a viernes y cinco (5) horas el Sabado y todos los dias que higa trabajo y tambien por la temporada de trabajo que se encuentra, asi como el trabajo se aflojera por un tiempesito despues de plantando el tabaco. El trabajador conformara que cuando higa trabajo este disponible para hacer las tareas cuando higa trabajo y sobre la temporada llena de empleo o que se encuentra. El trabajo disponible es definido como, no se trabajara en el tiempo de Sabat o en la temporada de las vacciones federales, pero el trabajo si se requiere seis (6) horas por dia de Lunes - Viernes, y cinco (5) horas los Sabados.*

*El trabajador entiende que si abandonan su trabajo de empleo o son terminados de empleo por causa antes de la temporada de empleo, o terminacion o como se encuentran, el trabajador pierdera la garantia de 3/4 de reembolso de ciertas costos de transportacion. Ausentes o tardes no seran toleradas y resultaran con terminacion.*

*El trabajo diario asignado y los trabajadores asignados, y la locacion sera asignado por, y nada mas por, el manejante de la labor o supervisor, o como se nececite en las operaciones dictadas sobre la operaciones de labor. Los trabajadores se le asignaran una variedad de ordenes en qualquier dia o tareas diferentes en diferente dias. Trabajadores seran disponibles para hacer las ordenes y el trabajo en cualquier cosecha asignada por el Patron o Supervisor.*

#### **§ 18, MORE DETAILS ABOUT THE PAY:**

In accordance with 20 CFR § 655.122(l) governing rates of pay, the wage rate offered herein is the highest of the adverse effect wage rate, the prevailing hourly rate, the agreed upon collective bargaining wage, or the federal or State minimum wage, in effect at the time work is performed for every hour or portion thereof worked during a pay period covered by the approved labor certification. If the worker's piece rate earnings for a pay period result in average hourly earnings of less than the guaranteed minimum, the worker will be provided make-up pay to the guaranteed minimum rate.

The employer will pay the prevailing piece rate in a crop activity for which a piece rate is specified if the DOL determines that a higher piece is prevailing in the crop activity in the area of intended employment than the piece rate specified herein. In the event DOL announces a lower prevailing piece rate in a crop activity for which a piece rate is specified herein, the employer reserves the right to pay the lower prevailing piece rate as soon as it is announced by DOL. In order to assure workers fair earnings, the employer may in its discretion temporarily raise the piece rate above the offered piece rate herein or may elect to pay workers at the highest hourly rate when, in the employer's judgment, working conditions are



unusually adverse. The employer will apply the prevailing hourly rate in a crop activity for which an hourly rate is specified if DOL determines that a higher hourly rate is prevailing in the crop activity in the area of intended employment other than the hourly rate specified herein. In the event DOL promulgates a new AEWR during the recruitment or work contract period which is higher or lower than the AEWR herein, the highest of the adjusted AEWR, the prevailing hourly rate, the agreed upon collective bargaining wage, or the federal or State minimum wage will become the new wage rate. In other words, the wage rate may increase or decrease during the life of this contract by DOL notification of such change. In the event the AEWR is eliminated from the H-2A program during the life of this work agreement, either administratively or legislatively, the employer reserves the right to pay the new wage rate under the new guidelines as soon as it becomes effective.

The employer will make the following deductions from the worker's wages: FICA, Medicare and income taxes as required by law; cash advances and repayment of loans; repayment of overpayment of wages to the worker; payment for articles which the worker has voluntarily purchased from the employer; long-distance telephone charges; recovery of any loss to the employer due to the worker's damage, beyond normal wear and tear, or loss of equipment or housing items where it is shown that the worker is responsible. No deduction not required by law will be made that brings the worker's hourly earnings below the higher of the federal minimum wage and State minimum wage.

The employer will not pay the worker a bonus.

Payroll periods will be weekly. On or before each payday, workers will be provided with an hours and earnings statement, which contains, at a minimum, (i) total earnings for the pay period; (ii) hourly rate and/or piece rate of pay; (iii) hours of employment offered to the worker (showing offers in accordance with the 3/4ths guarantee separate from any hours offered over and above the guarantee); (iv) hours actually worked by the worker; (v) itemization of all deductions; (vi) if piece rates are used, the units produced daily; (vii) beginning and ending dates of the pay period; and, (viii) the employer's name, address and FEIN, all in compliance with 20 CFR § 655.122(k), and all federal and State requirements.

Employer guarantees to offer workers employment for a total number of work hours equal to a least three-fourths (3/4ths) of the workdays of the total period beginning with the first workday after the arrival of the worker at the place of employment and the worker is ready, willing, able and eligible to work, and ending on the expiration date specified in the work contract or any extensions thereof or upon the termination of this employment as specified hereinbelow. Details of the 3/4ths guarantee are outlined in 20 CFR § 655.122(i). For purposes of this guarantee, a "workday" consists of six hours daily Monday through Friday and five hours on Saturday. Workers may be offered work on federal holidays and on their Sabbath but will not be required to do so. The calculated maximum amount of the three-fourths guarantee under this work contract at the AEWR currently in effect is \$6,772.50 [(25 work weeks x 35 offered hours per week) = 875 total anticipated hours in contract x 0.75 = 656.25 maximum potential hours guaranteed to be offered x \$10.32], which calculation is subject to decrease in the event of contract impossibility or increase in the event of an approved extension. Pursuant to 20 CFR § 655.122(n), workers who voluntarily abandon employment or are terminated for cause, and where the employer provides timely notification to the NPC and DHS, will relieve the employer for subsequent transportation and subsistence costs and the 3/4ths guarantee. The employer may terminate the work contract where the services are no longer required for reasons beyond the employer's control due to fire, weather, or other Act of God. In the event of contract impossibility, the employer will fulfill a three-fourths guarantee for the time that has elapsed from the start of the work contract to the time of its termination, the employer shall perform its obligations prescribed at 20 CFR § 655.122(o)(1-3). Reasonable efforts will be made to transfer a worker terminated for contract impossibility to other comparable employment acceptable to the worker, consistent with existing immigration law, as applicable.



All requests for leave of absence must be in writing. All absences will be counted towards hours offered for the purpose of computing the 3/4 guarantee.

Employer will provide a worker referred through the Interstate Clearance System a full week's work for the week beginning with the anticipated date of need in accordance with 20 CFR 653.501(d)(2)(v)(A), unless employer has amended the date of need by notifying the local order-holding office no later than ten (10) days before the date of need. If the employer fails to notify the order-holding office, then the employer shall pay an eligible worker referred through the Interstate Clearance System the first week's wage guarantee starting with the originally anticipated date of need. If the worker fails to notify the order-holding office of his continuing interest in the job no sooner than nine (9) working days and no later than five (5) working days before the date of need, the worker will be disqualified from the above-mentioned guarantee. The employer may require the worker to perform alternative work if the guarantee cited in this section is invoked. Alternative work will be general farm labor and farm maintenance activities that are incidental to farming the crops listed in the application. The amount of the first week's wage guarantee at the AEWI currently in effect is 35 hours x \$9.87 = \$345.45.

**OTHER CONDITIONS OF EMPLOYMENT, CLARIFICATIONS, AND ASSURANCES:**

**REQUIRED ASSURANCES:** The employer agrees to abide by the regulations at 20 CFR §§ 655.135 and 653.501. The employer adopts and incorporates by reference all required assurances set out at 20 CFR § 655.122. To the extent there is any discrepancy between this Form ETA 790 and Attachments, the required assurances statement attached to this Form ETA 790, or the Immigration and Nationality Act (the "INA") and any applicable H-2A regulations, then the INA and the applicable H-2A regulations shall always control.

**ASSURANCE OF CONTINUOUS WORKER'S COMPENSATION INSURANCE COVERAGE:** Pursuant to 20 CFR 655.122(e)(1), the employer will provide worker's compensation insurance, at no cost to the worker, covering injury and disease arising out of, and in the course of, the worker's employment. Prior to labor certification determination, the employer will provide proof of worker's compensation insurance coverage to the certifying officer in accordance with 20 CFR 655.122(e)(2). In the event that the current coverage will expire during the period of need reflected on attached ETA 790, Item 9, the employer gives written assurance of its intent to renew and maintain continuous coverage for the entire dates of need, as evidenced by the signed and dated ETA 790 to which this assurance is attached.

**CONDITION OF EMPLOYMENT:** All applicants must be able (with or without reasonable accommodation), willing, and qualified to perform all the work described, and must be available for the entire anticipated period of employment. The job offered is temporary and full-time only for the stated anticipated period of employment and any approved extension thereof. There is no offer or guarantee to be recalled for future employment except for the required solicitation of certain former U.S. workers in compliance with 20 CFR § 655.153.

**EARNINGS RECORDS:** Accurate and adequate earnings records will be kept in accordance with 20 CFR § 655.122(j). All records will be available for inspection and transcription by the U.S. Secretary of Labor or a duly authorized and designated representative, and by the worker and representatives designated by the worker as evidenced by appropriate documentation (an Entry of Appearance as Attorney or Representative, Form G-28, signed by the worker confirming such representation). Such record will be made available for inspection and copying within 72 hours following notice from the U.S. Secretary of Labor or a duly authorized and designated representative, and by the worker and designated representatives as described in this paragraph.



**CONTRACT IMPOSSIBILITY:** The employer will terminate the work contract of any worker whose services are no longer required for reasons beyond the control of the employer due to fire, weather, or other Act of God that makes fulfillment of the contract impossible. Whether such an event constitutes a contract impossibility will be determined by the Certifying Officer. In the event of such termination of a contract, the employer must fulfill a three-fourths guarantee for the time that has elapsed from the start of the work contract beginning with the first workday after the arrival of the worker at the place of employment or the advertised first date of need, whichever is later, and ending on the date of termination. The employer must make efforts to transfer the worker to other comparable employment acceptable to the worker, consistent with existing immigration law, as applicable. If such transfer is not affected, the employer must: (1) Return the worker, at the employer's expense, to the place from which the worker (disregarding intervening employment) came to work for the employer, or transport the worker to the worker's next certified H-2A employer, whichever the worker prefers; (2) Reimburse the worker the full amount of any deductions made from the worker's pay by the employer for transportation and subsistence expenses to the place of employment; and (3) Pay the worker for any costs incurred by the worker for transportation and daily subsistence to that employer's place of employment. These transportation arrangements apply only to those workers recruited from outside the area of intended employment.

**TERMINATIONS:** The employer may terminate the worker with notification to the appropriate State and federal agencies if the worker: (a) refuses without justified cause to perform work for which the worker was recruited and hired; (b) commits serious acts of misconduct; (c) fails to keep up with other workers in the field or hinders another worker's productivity; (d) malingers or otherwise refuses without justified cause to perform as directed the work for which the worker was recruited and hired; (e) provides other lawful job-related reason(s) for termination of employment; (f) abandons his employment; (g) fails to meet applicable production standards when production standards are applicable; (h) falsifies identification, personnel, medical, production, or other work-related records; (i) fails or refuses to take an alcohol or drug test; (j) employer discovers a criminal conviction record or status as a registered sex offender that employer reasonably believes will impair the safety and/or living conditions of other workers; (k) commits an act or acts of insubordination, including the failure to regard employer's authority; (l) lies or provides a false statement to the employer; (m) collects any money or other thing of value from prospective employees or current employees in order for the payor to work for this employer; (n) violation of employer's safety rules; (o) unauthorized or illegal possession, use or sale of alcohol or controlled substances on employer's premises or during working hours, while engaged in work activities or in employer's vehicles; (p) unauthorized or illegal possession, use or sale of weapons, firearms, or explosives on employer's premises or in employer's vehicles; (q) theft or dishonesty; (r) inappropriate physical contact; (s) harassment; (t) discrimination or retaliation; (u) disrespect toward fellow workers, visitors or other members of the public; (v) performing outside work or use of employer's property, equipment or facilities in connection with outside work while on employer's time; (w) poor attendance or poor performance. The grounds for immediate termination listed above are not all inclusive. All termination decisions will be based on an assessment of all relevant factors.

In the event of termination from medical reasons occurring after arrival on the job, or occurring as a result of employment, or in the event of termination resulting from an Act of God, the employer will pay or provide reasonable costs of return transportation and subsistence to the place from which the worker came to work for the employer and reimburse worker for reasonable cost of transportation and subsistence incurred by the worker to get to the place of employment. These arrangements apply only to workers who are recruited outside the area of intended employment.

**REPORTING ABANDONMENT OF EMPLOYMENT OR TERMINATION FOR CAUSE:**

The employer will report workers who, a) voluntarily abandon employment before the end of the contract period, or b) workers who are terminated for cause, to the Chicago National Processing Center, and H-2A workers to the Department of Homeland Security, in writing or other approved method, not later than two



(2) days after the abandonment or termination occurs. Abandonment will be deemed to begin after a worker fails to report for work at the regularly scheduled time for five (5) consecutive days without the consent of the employer. The employer will not be responsible for providing or paying for reported workers a) subsequent transportation and subsistence expenses, and b) the worker will not be entitled to the 3/4 guarantee.

**PROOF OF CITIZENSHIP:** All workers hired under this order will be required to provide documentation attesting to United States citizenship or legal status to work in the United States.

**AGRICULTURAL WORK AGREEMENT:** A copy of the work contract will be provided to the worker by the employer no later than on the day work commences. For an H-2A worker, a copy of the work contract will be provided no later than the time at which the worker applies for the visa. For an H-2A worker going from an H-2A employer to a subsequent H-2A employer, a copy of the work contract will be provided no later than the time an offer of employment is made by the subsequent H-2A employer.

**NUMBER OF WORKERS:** The employer expects the total number of workers to be used in this occupation to be 46, of which 46 will be H-2A workers for which certification is requested, and the balance will be domestic workers. These numbers are estimates as total work force needs are dependent upon weather, crop conditions, and worker availability.

**OTHER:** The working conditions will comply with applicable federal and State minimum wage, child labor, social security, health and safety, farm labor contractor registration and other employment-related laws. The employer is an Equal Employment Opportunity Employer and will offer United States workers at least the same opportunities, wages, benefits, and working conditions as those which the employer offers or intends to offer non-immigrant workers.

**EMPLOYER FURNISHED TOOLS AND EQUIPMENT:** The employer will furnish, without cost, all tools, supplies, or equipment required in the performance of work.

**SUBSTANCE ABUSE POLICY:** The use or possession or being under the influence of illegal drugs or alcohol during working time is prohibited. Workers may be requested to submit to random drug or alcohol tests at no cost to the worker. Failure to comply with the request or testing positive may result in immediate termination. All testing will occur post-hire and is not a part of the interview process.

**REQUIRED DEPARTURE:** H-2A workers are required to leave the United States at the end of the period certified by the Department of Labor or separation from the employer, whichever is earlier, as required under 20 CFR § 655.135(i), unless the H-2A worker is being sponsored by another subsequent employer. This shall serve as official notification of this requirement to any H-2A worker employed under the agricultural work agreement.

**PROHIBITIONS AGAINST EMPLOYEES PAYING FEES:** The employer and its agents have not sought or received payment of any kind from any employee subject to 8 U.S.C. § 1188 for any activity related to obtaining H-2A labor certification, including payment of the employer's attorneys' fees, application fees, or recruitment costs, as prohibited by 20 CFR § 655.135(j). Costs that are the responsibility and primarily for the benefit of the worker, such as government-required passport fees, are not included in this prohibition.

**CONTRACTS WITH THIRD PARTIES COMPLY WITH PROHIBITIONS:** The employer has contractually forbidden any foreign labor contractor or recruiter, if any, whom the employer engages, either directly or indirectly, in international recruitment of H-2A applicants to seek or receive payments from prospective employees, except as provided for in Department of Homeland Security regulations at 8

CFR § 214.2(h)(5)(xi)(A). Likewise, all employees are prohibited from collecting any money or other thing of value from prospective employees or current employees in order for the payor to work for the employer. This employer has zero tolerance for prohibited payments. Employees should report to the employer immediately the name of any person seeking to collect a prohibited payment and the amount sought. Any employee found to have collected a prohibited payment will be required to reimburse the injured party immediately and will be terminated from employment. An employee cannot be discriminated against or discharged for reporting a prohibited payment.

**NOTICE OF WORKER RIGHTS:** The employer agrees to post and maintain in a conspicuous location at the place of employment a poster to be provided by the Secretary of Labor as described at 20 CFR § 655.135(l), when such poster is available from the Secretary.



# EMPLOYEE RIGHTS UNDER THE H-2A PROGRAM

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

The Immigration and Nationality Act (INA) allows for the employment of temporary, non-immigrant workers in agriculture (H-2A WORKERS) only if the employment of U.S. workers would not be adversely impacted. To ensure that U.S. workers are not adversely impacted, *H-2A WORKERS* and *OTHER WORKERS* employed on an H-2A work contract or by an H-2A employer in the same agricultural work as the H-2A workers have the following rights:

## DISCLOSURE

- To receive accurate, **WRITTEN INFORMATION** about the wages, hours, working conditions, and benefits of the employment being offered
- To receive this information prior to getting a visa and no later than on the first day of work
- To receive this information in a language understood by the worker

## WAGES

- To be **PAID** at least twice per month at the rate stated in the work contract
- To be informed, in writing, of all **DEDUCTIONS** (not otherwise required by law) that will be made from the worker's paycheck
- To receive an itemized, written **STATEMENT OF EARNINGS** (pay stub) for each pay period
- To be guaranteed employment for at least **THREE-FOURTHS (75%)** of the total hours promised in the work contract

## TRANSPORTATION

- To be provided or, upon completion of 50 percent of the work contract period, reimbursed for reasonable costs incurred to the place of employment for transportation and subsistence (lodging incurred on the employer's behalf and meals)
- Upon completion of the work contract, to be provided or paid for return transportation and subsistence
- For workers living in employer-provided housing, to be provided **TRANSPORTATION**, at no cost to the worker, between the housing and the worksite
- All employer-provided transportation must meet applicable safety standards, be properly insured, and be operated by licensed drivers

## HOUSING

- For any worker who is not reasonably able to return to his/her residence within the same day, to be provided **HOUSING AT NO COST**
- Employer-provided housing must meet applicable safety standards
- Workers who live in employer-provided housing must be offered three meals per day at no more than a DOL-specified cost, or provided free and convenient cooking and kitchen facilities

## ADDITIONAL PROVISIONS

- To be provided state **WORKERS' COMPENSATION** insurance or its equivalent
- To be provided, at no cost, all **TOOLS, SUPPLIES, and EQUIPMENT** required to perform the assigned duties
- **TO BE FREE FROM DISCRIMINATION or DISCHARGE** for filing a complaint, testifying, or exercising your rights in any way or helping others to do so
- Employers **MUST** comply with all other applicable laws (including the prohibition against holding workers' passports or other immigration documents)
- Employers and their agents, including foreign recruiters, or anyone working on behalf of the employer, **MUST NOT** receive payment from any worker for any costs related to obtaining the H-2A certification (such as application and recruitment fees)
- Employers **MUST** display this poster where employees can readily see it
- Employers **MUST NOT** lay off or displace similarly employed U.S. workers within 60 days of the date of need for H-2A workers
- Employers **MUST** hire any eligible U.S. worker who applies during the first 50 percent of the approved work contract period

Workers who believe their rights under the program have been violated may file confidential complaints.



For additional information:

**1-866-4-USWAGE**

(1-866-487-9243) TTY: 1-877-889-5627



**WWW.WAGEHOUR.DOL.GOV**



# DERECHOS DEL EMPLEADO BAJO EL PROGRAMA H-2A

## SECCIÓN DE HORAS Y SUELDOS DEL DEPARTAMENTO DE TRABAJO DE EEUU

La Ley Sobre Inmigración y Nacionalidad (INA-siglas en inglés) permite el empleo de trabajadores temporeros no inmigrantes en agricultura (Trabajadores H-2A) siempre y cuando no se impacte adversamente a trabajadores de EEUU. Para asegurarse de que no se impacte adversamente a trabajadores de EEUU, **TRABAJADORES H-2A y OTROS TRABAJADORES empleados en el contrato de trabajo H-2A o por un empleador H-2A en el mismo trabajo agrícola como trabajadores H-2A** tienen los siguientes derechos:

- DECLARACIÓN**
- Recibir **INFORMACIÓN ESCRITA** sobre los salarios, las horas, las condiciones de trabajo y los beneficios de empleo que se ofrecen
  - Recibir esta información antes de conseguir un visado y no más tarde del primer día de trabajo
  - Recibir esta información en un idioma que lo entienda el trabajador
- SALARIOS**
- Que se le **PAGUE** por lo menos dos veces al mes de acuerdo con la tasa especificada en el contrato de trabajo
  - Que se le informe, por escrito, de todas las **DEDUCCIONES** (no exigidas de otro modo por ley) que se harán del cheque de pago del trabajador
  - Recibir una **DECLARACIÓN DE INGRESOS** (talón de pago) escrita y detallada para cada período de pago
  - Que se le garantice empleo por lo menos de **TRES CUARTOS (75%)** del total de horas prometidas en el contrato de trabajo
- TRANSPORTE**
- Que se le proporcione o, al cumplir con 50 por ciento del período de trabajo contratado, reembolse por los costos razonables incurridos por transporte y alimentación al lugar de empleo (alojamiento incurrido a favor del empleador y comidas)
  - Al terminar el contrato de trabajo, que se le proporcione o que se le pague transporte de regreso y alimentación
  - Para trabajadores que viven en viviendas proporcionadas por el empleador, que se le provea **TRANSPORTE**, sin ningún costo al trabajador, entre la vivienda y el sitio de empleo
  - Todo transporte proporcionado por el empleador ha de cumplir con todas las normas de seguridad aplicables, ha de estar asegurado correctamente y ha de ser operado por un conductor licenciado
- VIVIENDA**
- Para cualquier trabajador que no pueda regresar razonablemente a su domicilio durante el mismo día, se le tiene que proporcionar **VIVIENDA SIN COSTO ALGUNO**
  - La vivienda proporcionada por el empleador tiene que cumplir con las normas de seguridad aplicables
  - Al trabajador que vive en una vivienda proporcionada por el empleador se le tiene que ofrecer tres comidas por día y que no cuesten más del costo especificado por DOL, o que se le provea las comodidades para poder cocinar y de una cocina
- DISPOSICIONES ADICIONALES**
- Que se le provea seguro de **INDEMNIZACIÓN ESTATAL PARA TRABAJADORES**, o su equivalente
  - Que se le provea, sin ningún costo, todas las **HERRAMIENTAS, SUMINISTROS y EQUIPO** exigidos para desempeñar cargos asignados
  - **ESTAR LIBRE DE DISCRIMINACIÓN o DESPIDO** por presentar una demanda, por atestiguar o por ejercer de cualquier modo sus derechos o por ayudar a otros a hacer lo mismo
  - Todo empleador **TIENE** que cumplir con todas las otras leyes aplicables (incluso la prohibición contra la retención de pasaportes de los trabajadores o cualquier otro documento de inmigración)
  - Ningún empleador ni sus agentes, incluso reclutadores extranjeros, o cualquiera que trabaje en nombre del empleador, **PUEDEN** recibir pago de ningún trabajador por ningún costo relacionado al proceso de obtener la certificación H-2A (tal como honorarios de solicitud y de reclutamiento)
  - Todo empleador **TIENE** que exhibir este cartel donde los empleados lo puedan ver fácilmente
  - **NINGÚN** empleador **PUEDE** despedir o desplazar a trabajadores de EEUU semejantemente empleados 60 días o menos antes de la fecha que se necesiten trabajadores H-2A
  - Todo empleador **TIENE** que contratar a cualquier trabajador elegible de EEUU que solicite durante el primer 50 por ciento del período de trabajo en el contrato aprobado

Todo trabajador que crea que sus derechos hayan sido violados bajo este programa puede presentar una demanda confidencial.



Para información adicional:

**1-866-4-USWAGE**

(1-866-487-9243) TTY: 1-877-889-5627



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